

THE NEWS OF NORFOLK ON PAGES 2, 3, 5 & 6.

COURT DECISIONS.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)Notes of Cases Recently Decided,
Which are of Interest to
Our People.STATE VS. SOUTHERN R. CO.
Supreme Court of North Carolina,
December 5, 1899.

AN INDICTMENT AGAINST A RAILROAD COMPANY FOR UNLAWFUL DISCRIMINATION IN THE TRANSPORTATION OF PASSENGERS, WHICH ALLEGES THAT A PARTY HAD A FREE PASS, MUST ALSO ALLEGE THAT HE RECEIVED FREE TRANSPORTATION.

IT NEED NOT STATE THAT HE DID NOT BELONG TO ONE OF THE EXCEPTED CLASSES, OR THAT THERE WERE OTHER PASSENGERS ON THE TRAIN PAYING FARE.

The Southern Railway Company was indicted for unlawfully discriminating as to the transportation of passengers. There was a judgment quashing the indictment and the State appealed. The facts appear from the opinion of the court.

The court says:
The first count alleges that the defendant, a common carrier, unlawfully and wilfully did give undue and unreasonable preference to one T. N. Hallyburton, by giving said T. N. Hallyburton a free pass over the road of the defendant company. This is defective, in that it fails to allege that by virtue of such free pass said Hallyburton received free transportation, which would be an undue preference, forbidden by the statute, equally whether it was given upon a free pass from an official, or by a verbal order, or upon a ticket or mileage book not in truth paid for, but donated by the company. It is the fact of discrimination, and not the method by which it is done, which constitutes the offense, though the method of violation may, and doubtless should, be charged in the indictment, to the end that the common carrier may be more fully prepared to meet the charge. There are discriminations which require more explicit allegation—as, for instance, illegal rebates upon freight charges, and the like; but, as the common carrier carries for hire, the allegation that it gave a person named undue preference by transporting him free of terminal charges is sufficient. There are sections of the act creating this offense which authorize common carriers to grant free transportation in specified cases, but not being within this section, it is not necessary in the indictment to make the negative averment that Hallyburton did not belong to one of the excepted classes. If he did, it would be matter of defense. If the short form set out in the first count had not been defective in the particular indicated, we are inclined to think (though we do not now pass upon it) it would have been sufficient. It would be no benefit to the defendant to require the solicitor to exhaust time and labor in drafting the long and tedious instrument which constitutes the second count, if a shorter allegation can express "the charge against the defendant in a plain, intelligible and explicit manner," which is all the statute exacts. The General Assembly has authorized the English form of indictment for murder, which can be sufficiently and fully set out in three lines; and all other indictments are greatly simplified. Certainly information can be conveyed to a common carrier employing intelligent servants and attorneys that is charged with violating the law against undue preference and discrimination by carrying a passenger free, without using the above prolix form covering two and a half printed pages—more than 1,000 words.

Council argued to us that it must be charged and proved that at the same time, and on the same train, there were other passengers paying fare. We do not so understand the law (though this in fact is explicitly charged in the second count), for, as the common carrier carries for hire, it would have been equally a preference and discrimination against the public if this had been a special train carrying a solitary dead-head, or a train composed entirely of that class, whirled away, possibly, to some political convention. In fact, either of these cases would be an aggravation of the offense, instead of an excuse. As the common carrier is dependent for its profits upon its receipts, the carrying of those free who should pay (not being in the class excepted by law) necessarily adds the cost of their transportation to the charges exacted of those who pay, and such cost would be increased if the train on a given occasion carries all its passengers free, whether it is one man only, in solitary and lonely state, or a car or train load; and this would equally violate another purpose of the law, which is to prohibit the many evil results which must be the necessary consequence of quasi public corporations having the power to discriminate in their charges. Reversed.

HUDGSON V. ST. P. PLOW CO.
Supreme Court of Minnesota, November 28, 1899.

WHERE A TRUST FUND IN POSSESSION OF, AND UNDER THE CONTROL OF A MASTER, WAS CONVERTED BY A SERVANT UNDER HIS MASTER'S ORDERS, THE MASTER, AND NOT THE SERVANT, IS LIABLE FOR THE CONVERSION.

The point decided appears from the opinion of the court.

The court says:
There is, in our opinion, another reason why the judgment should be affirmed. Power was a mere servant of plow company. The court finds that one Dawson was its vice-president, and engaged in the management of its affairs. Whether such an executive

officer would be liable in such a case as this, we need not consider. The court finds that Power "was duly appointed general manager," but this does not show that he was anything more than a mere servant. In contemplation of law, such a servant has no possession of or title to his master's property, and, if it was wrongfully taken away from him he could not maintain either replevin or trover for it. A servant may be a joint trespasser or a joint tortfeasor in assisting his master in taking the goods wrongfully, but the servant is not liable for merely holding and refusing to deliver up goods received by him from his master, and held by him under the master's order.

If while the \$2,000 (the trust fund) was still on deposit, and Power, as such servant, had the custody of the certificate of deposit, plaintiff had brought an action against him alone to have a trust declared in its favor upon certificate, we are clearly of the opinion that the action could not be maintained. It would be useless to bring such an action. The plow company might discharge Power the next day after the action was commenced. Thereafter his relations to the certificate of deposit would be the same as that of any other stranger, and the action must necessarily be abortive. If plaintiff could not maintain such an action against Power while the alleged trust fund was so on deposit, it cannot maintain this action now, after the trust fund has been distributed in payment of the debts of the plow company. Affirmed.

BRAMBLETON.

The Local Board of Improvement held a special meeting last night to act upon the bids for removing the garbage in the ward and to transact such other business as might come before it. Chairman C. J. Jones presided.

On motion, the following bids were opened:

R. A. Hyslop \$ 983
J. W. Stokes 1,125
W. T. Ford 1,140
Dalby, Nottingham & Co. 1,750
J. E. Henley 1,320
J. H. Fotherly 1,500

Mr. R. A. Hyslop being the lowest bidder, the contract was awarded him. The secretary was instructed to ask the City Attorney to draw up the contract and specifications and to return the checks to the other bidders.

Under a suspension of the rules the City Engineer was authorized to employ Colonel Blackford another month.

The bid of Mr. G. W. Denby at \$1.61 per foot for improving 600 feet of Polard avenue, in order to connect it with Charles street and Sheldon avenue, was referred to the Street Committee to report at the next meeting.

The matter of grading the new streets was discussed at some length, but action was deferred until the next meeting.

The chairman of the Street Committee was authorized to designate where the dirt was to be dumped after the garbage had been attended to.

BREVITIES.

At 5:45 o'clock yesterday morning the box alarm sounded at the residence of Mr. Dodamead, on North Marshall avenue. A thief was at the henery. Several shots were fired at the party, but he made his escape, leaving a basket and shop apron.

It was a social given by the Enterprise Society of McKendree Church Thursday night, and not an oyster supper. They propose to have no such entertainments at the church in the future.

Rev. Geo. S. Bassom, late of Constantinople, will speak at Park Avenue Baptist Church Sunday night. Just after the awful massacre of the Armenians Mr. Bassom visited Norfolk and addressed its people to rescue his parents, brothers and sisters from Turkish cruelty. He grandly succeeded in this endeavor and his mother and father are now in Boston. He will tell of his journey home and the goodness of God to him. No collection or offering will be taken for him. He is a most interesting speaker, a gentleman of wide culture, a graduate of Robert College, Constantinople, and has appeared before some of the largest audiences in America, when with fervid eloquence he pleaded for Armenia.

The Epworth League of Trinity M. E. Church will meet for devotional services at 6:30 Sunday night.

Mr. W. J. Green, of South Kelley avenue, will leave Monday, accompanied by his eldest daughter, Miss Gertrude, for Quebec, Canada. On their route they will stop over for a short time at Detroit, Mich., on a visit to his mother. They will spend the winter and early part of the spring in Quebec, returning home before summer.

Weekly instruction in music by a competent teacher is a new and entertaining feature at the public school. Several new dwellings are nearing completion on C and Central avenues.

A very pleasant time was spent Thursday evening by the young people who attended the feast of good things provided by Messrs. Shelton and Selen McKenzie at their home on Outten street.

Next Tuesday evening an elegant supper will be served at Odd Fellows' Hall, corner of Church street and Washington avenue, by the Woman's Home Mission Society of the Methodist Church. These ladies are noted for being good caterers. They hope to be greeted with a large attendance.

Mrs. Samuel Shane has been confined to her home on Dutton street by sickness for several days.

Funeral of Mr. Edward Arden.

Mr. Edward Arden, a young naval architect, in the employ of the Newport News Ship-building and Dry-dock Company, died at the Protestant Hospital, this city, Thursday afternoon, after a brief illness. The deceased was 26 years old and of English birth. His remains were taken charge of by friends from Newport News, who turned them over to Mr. H. D. Oliver, the funeral director, to prepare for burial. The obsequies were conducted at his apartments at 2 o'clock yesterday afternoon by Rev. Dr. B. D. Tucker, of St. Paul's P. E. Church. The interment was in Elmwood Cemetery.

BRIEF ITEMS OF INTEREST.

The Payne-Cromwell nuptials were solemnized in Salem Baptist Church by Rev. C. Kelly Hobb, and Miss Euna Cromwell was maid of honor. This statement is made to correct some errors in the account of the marriage published yesterday morning.

Mrs. James Young, editor of the Baltimore Telegram, and mother of the talented young Southern tragedian, James Young, Jr., who is filling an engagement at the Academy of Music, is in the city, a guest of the Monticello Hotel.

Mr. George McIntosh returned yesterday from Richmond, where he had been in connection with the Solomon case before the Supreme Court.

Mr. George P. Cotchett, of Wilmington, N. C., was in our city on business yesterday.

Mr. J. D. Ennis, of Salisbury, N. C., was here yesterday on a business mission.

Mr. William A. Miller, a prominent Lynchburger, was in Norfolk yesterday.

Mr. H. C. Olds, of Raleigh, was in the city yesterday, stopping at the Monticello.

Mr. C. R. Merrill, of Elizabeth City, N. C., came to Norfolk on a brief business trip yesterday.

Mr. Archer L. Payne, of Roanoke, returned home yesterday after a two days' stay here on professional business.

Among the Norfolk attendants at the Gough-Magruder wedding at Baltimore Wednesday were Miss Lucile Ramsey and Mr. W. H. Hardin.

One of Norfolk's popular railroad clerks is reported to have been married in Baltimore Wednesday morning. It is stated that his railroad friends have secured a handsome silver service, which will be presented to him on his return to this city.

Miss Mary Elizabeth Williams, No. 142 Charlotte street, left yesterday for Baltimore, where she will spend a few days. From there she will go to Philadelphia to attend the Conservatory of Music.

Mr. J. R. Wilcox, of the Chesapeake and Ohio ticket office, who has been ill with typhoid fever since Christmas day, is much improved in condition and his friends hope for his speedy convalescence.

Mr. Vetter, of the Norfolk Candy Kitchen, is spending a few days at Baltimore.

The regular meeting of the Volunteer's will be held next Tuesday night at No. 64 Falkland street.

Mr. Harry Butt left for Baltimore last night via the Bay Line on business for E. V. White & Co.

Mr. Max Nussbaum, of Baltimore, was in the city yesterday, and left for his home last night.

Mr. Douglas L. Leftwich, of Baltimore, who has been spending several days in Norfolk, returned home last night.

Mr. John L. Stevens has returned from his extensive visit South, and spent ten days with his numerous friends here. He left last night for his home on the steamer Juniata. Mr. Stevens takes this method of returning his thanks to Messrs. John Hill, Charles Brockets, B. D. Henneley, Captain A. J. Dalton, Sheriffs Cromwell and Lawler, Mr. W. H. Venable; in fact, one and all of his friends for the kindness he received while in Norfolk, and hopes he may have the chance to return the courtesies that they have shown him.

A portion of the Battleship Committee returned from Washington yesterday. The remainder are expected home this morning.

LAMBERT'S POINT.

The directors of the Pioneer Fire and Salvage Company held a meeting at the Powhatan Manufacturing Company's office last night, and decided to purchase a combination chemical and truck engine of the Hollowell Manufacturing Company, of Baltimore. This will put the fire-ladders in good position to fight fires, and the protection thus afforded to this growing section will add greatly to the valuation of property and lessen insurance rates.

Since opening the loop street railway track the growth of this suburb of Norfolk has been almost phenomenal, and there is a daily demand for houses to rent and no empty houses to be had, new houses being often spoken for or rented before they are built.

The work of Rev. A. G. Lillierap, the English evangelist, of Kent county, who is holding nightly meetings at the Baptist Church, is meeting with considerable success, and he is drawing large audiences nightly. The interest in his preaching is also growing and he is reported to be doing a good work.

The public misses the arc electric light at the junction of the street railway loop, opposite Smother's drug store.

Dr. Dowdy is still confined to his bed and has been for some two weeks. His condition is not considered serious, however.

There has not been an arrest or serious disturbance at the Point for nearly two weeks.

There will be no morning service at the Presbyterian Church Sunday, but Rev. C. W. Maxwell will preach in the afternoon.

The immense increase in shipping at the Point during the last few months has given considerable impetus to the merchants' business.

Rev. J. J. Taylor, D. D., of the Freemason Street Baptist Church, and Rev. E. E. Dudley will take part in the ordination of three deacons at 3:15 o'clock to-morrow afternoon at the Lambert's Point Baptist Church.

Dr. Daughtie, who has been quite sick for some time, is able to be out again.

Total Bank Clearings

(By Telegraph to Virginian-Pilot.)
New York, Jan. 19.—Total bank clearings for the week were \$1,718,116,504, an increase of 13.7 per cent.
Outside of New York city, \$675,397,078, an increase of 4.4 per cent.

PEOPLES' FORUM.

NOTE.—The People's Forum being freely open to all parties, classes, persons, views and capacities, the Virginian-Pilot is responsible for none of the statements nor opinions expressed therein, nor for the style in which they are set forth. The ignorant and uneducated shall be heard here equally with the learned.

Answer to Kicker.

Editor Virginian-Pilot:
Dear Sir:—I wish you would ask Mr. Kicker, as he calls himself a liberal man, to think over what he said in your worthy paper Thursday. He is complaining that God's law is not enforced. Does Mr. Kicker keep the Sabbath day holy? Does he understand the meaning of Sabbath, whether should it be Saturday or Sunday? If he meant the Sabbath day should be holy, does he keep Saturday holy? Sabbath means the seventh in old Roman and Hebrew language, and Sunday is the eighth day in the week. But if he meant Sabbath Sunday should be holy, why, then, let violate those that sin to God and to humans. Those that sell liquor on Sunday are doing double sin, and those that keep the stores open on Sunday don't do harm to no one. Those that are willing to buy fruits or candy are not going to Fought. And he must think over that those that do keep open on Sunday have done as the commandment reads: "Remember the Sabbath day to keep it holy." They keep the Sabbath day, and he doesn't. I never did like to see a good Christian with a cross in one hand and a dagger in the other. The Kicker clings to the commandment: "Remember the Sabbath day," but he forgets another one: "Love your neighbor as yourself."

Chapter xix:15: Ye shall do no unrighteousness in judgment; thou shalt not respect the person of the poor, nor honor the person of the mighty; but in righteousness shalt thou judge thy neighbor. 18: Thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbor—as thyself. I am the Lord.

Now, if Mr. Kicker had a store and the law would make him worship or close two days in a week I should say that Mr. Kicker would kick very high then. The best advice to Mr. Kicker is this: If you can't clean out the city of gambling and getting drunk on the holy day, then don't cry about those harmless stores; don't give freedom to the criminal, and arrest the one that steals a loaf of bread when he is hungry. I am not trying to insult Mr.

Kicker, but I would advise him to put on eyeglasses and look into the matter before he says anything.

Yours respectfully,
CONSTANT READER.Children's Mass Meeting.
The W. C. T. U.'s are making arrangements for a grand children's mass meeting, which will take place on February 6th, under the direction of Miss Anna Gordon, vice-president of the National W. C. T. U., and World's superintendent of Loyal Temperance Legion work.

A chorus of children from all the different Sunday schools will meet Sunday afternoon at 4 o'clock at the First Baptist Church to be trained for the chorus on that occasion.

Children from all the various Sunday schools are invited to join this chorus.

ATLANTIC CITY.
Rev. John E. Wales will conduct Episcopal services at the W. C. T. U. Hall, on Colley avenue, at 7:45 o'clock Sunday night.

The Junior Epworth League of Le-Kies Memorial Church will have a grand rally at 3 o'clock Sunday afternoon.

The Junior Society of Christian Endeavor of Colley Memorial Church will hold its regular meeting at 4 o'clock to-morrow afternoon.

OTHER LOCAL ON PAGE 6

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OTHER LOCAL ON PAGE 6

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